

Scott D. Bergin  
Richard R. DuVall  
Lance N. Portman  
Matthew V. Mirabile  
Kimberly Hunt Lee  
Thomas J. Cummings  
Tinamarie Fisco  
Nicholas Tarkazikis



*Of Counsel*  
David L. Posner  
Ellen L. Baker  
Richard J. Olson  
Hon. Albert M. Rosenblatt  
James Kimmel  
James E. Nelson, Jr.

John E. Mack 1874-1958  
Joseph A. McCabe 1890-1973  
1998  
5-1981  
86-2022

Direct Dial: (845) 486-6894  
E-mail: klee@mccm.com  
May 6, 2024

**VIA ECF**

Hon. Philip M. Halpern  
The Hon. Charles L. Brieant Jr.  
Federal Building and United States Courthouse  
300 Quarropas Street  
White Plains, NY 10601

Application granted. The discovery conference scheduled for May 6, 2024 is adjourned to May 30, 2024 at 12:30 p.m. The Clerk of Court is respectfully requested to terminate the pending letter-motion (Doc. 57).

SO ORDERED.

Philip M. Halpern  
United States District Judge

Dated: White Plains, New York  
May 6, 2024

RE: Fincher v. City of Newburgh  
7:22-cv-10590 (PMH)(JCM)  
Our File No. 16380-49

Dear Judge Halpern:

We respectfully submit this joint response to the Court's May 3, 2024 Order. At the outset, the parties note that we have a settlement conference on Thursday with Magistrate McCarthy, and if the court would agree, we would ask that today's conference be adjourned until after the settlement conference so as not to waste the court's time in the event of a settlement, which the parties reasonably expect.

The parties continue to dispute the scope and extent of the defendants' production of documents relating to other instances of use of force by City of Newburgh police officers. Specifically, defendants take the position that they need only produce records relating to incidents where an officer displayed or used a firearm or other means of deadly force. Plaintiff takes the position that, since defendant's counsel has already obtained and reviewed records relating to all uses of force during the relevant time period, all such records should be turned over so that plaintiff may review and have opportunity to argue the relevancy of instances not specifically involving a police firearm. As the court may be aware this case alleges excessive force in the police shooting of Mr. Fincher.

The parties are optimistic about the prospects of resolving this matter at the settlement conference this week and, as such, perhaps our discovery conference with Your Honor should adjourned to a date after May 9. If the matter resolves on the 9th, we will immediately notify the court.

Respectfully yours,

McCABE & MACK LLP  
  
KIMBERLY HUNT LEE  
KHL/dmf

cc: Jonathan R. Goldman, Esq./Sussman & Watkins